IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

ITA No. 128 of 2002

Date of Decision: 17.12.2007

Commissioner of Income Tax, Jalandhar-II, Jalandhar

…Appellant

Versus

M/s The Nakodar Co-op. Sugar Mills Ltd., Nakodar

…Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Sanjeev Bansal, Advocate,

for the appellant-revenue.

M.M. KUMAR, J.

This order shall dispose of I.T.A. Nos. 128 and 126 of 2002, which have been filed by the revenue under Section 260A of the Income-tax Act, 1961 (for brevity, 'the Act'), challenging common order dated 24.12.2001, passed by the Income Tax Appellate Tribunal, Amritsar Bench , Amritsar (for brevity, 'the Tribunal'), in I.T.A. Nos. 209(ASR) 2001 and I.T.A. No. 111(ASR) 1999, in respect of assessment years 1998-99 and 1996-97 respectively. It is claimed that following substantial questions of law would emerge for determination of this Court:-

1. Whether the Tribunal was justified in directing the Assessing Officer not to include depreciation

while calculating the valuation of the closing stock when the closing stock was not being valued on direct cost method in the accounting year relevant to Assessment Year 1995-96?

2. Whether the Tribunal was justified in directing the Assessing Officer to reconsider the issue of disallowance of Rs. 1,22,64,257/- although there was no such dispute before the CIT (A)?

After hearing learned counsel for the appellant-revenue and perusing the record we find that the matter is no longer *res integra*. Hon'ble the Supreme Court in the case of **United Commercial Bank v. Commissioner of Income-Tax, (1999) 240 ITR 355 (S.C.),** has already answered the questions of law against the revenue and in favour of the assessee.

In view of above, following the same principle the questions of law raised in the instant appeals are answered against the revenue and in favour of the assessee being squarely covered by the judgment of Hon'ble the Court in the case of United Commercial Bank (supra).

(M.M. KUMAR)
JUDGE

(RAKESH KUMAR JAIN)
JUDGE

December 17, 2007
Pkapoor